

**A Guide to Gender Issues and Best Practices in Land Administration Projects:
A Synthesis Report
(World Bank; Agriculture and Rural Development Department, 2005).**

**Robin Palmer
Global Land Adviser
Oxfam GB**

Gender Issues and Best Practices in Land Administration Projects: A Synthesis Report (http://siteresources.worldbank.org/INTARD/Resources/Gender_land_fulltxt.pdf) was sent to me by Arunima Dhar of the World Bank's Agriculture and Rural Development Department. It is a synthesis of information, ideas and suggested best practice gleaned from 4 case studies of World Bank-financed land programmes in Ghana, Lao, Bolivia and Azerbaijan. It is designed and intended to be used as 'in very practical ways' (p.1). I have already suggested to Lilianne Fan (Oxfam International Advocacy Coordinator in Aceh, Indonesia) that she makes use of it when engaging with the World Bank in the Rehabilitation of Aceh Land Administration System project, which 'aims to issue up to 600,000 certificates over a 3-year period through community-driven adjudication processes'.

My personal view is that **this report is likely to prove extremely helpful to practitioners of various kinds**, and I have therefore decided that it might be worthwhile writing this guide to it in order to help others both discover and make effective use of its contents.

A. Structure of the report

Gender Issues and Best Practices comprises an executive summary, an introduction, and 4 main chapters entitled:

- Why does gender matter for land policy? Theory and evidence (pp.3-10)
- Actors in the struggle to improve women's land rights (pp.11-15)
- Priority gender issues in land administration projects (pp.17-40)
- Lessons learned and recommendations (pp.41-45).

The key chapter in terms of practical use in other contexts is chapter 4 on **priority gender issues in land administration projects**, which is divided into these 5 headings:

- Intrahousehold legal and customary rights (pp.19-26)
 - marital property rights
 - inheritance
 - role of law reform
 - legal and land policy issues
- Identification of property holders (pp.26-31)
 - one proprietor per parcel model
 - some major ethnic and cultural property norms and practices
 - conjugal unions and land rights
 - rural/urban and regional variations
- Methodology for gender-disaggregated field assessment of land rights (pp.31-32)
 - project preparation: the social assessment
 - project implementation: the baseline survey
 - monitoring and evaluation
- Adjudication and registration process (pp.32-35)
 - collection of information and evidence of rights
 - public notice and registration
 - issues to be considered in the adjudication process
- Education, training and communication (pp.35-40)

- training of implementers
- training of and communication with beneficiaries
- other considerations

The final chapter (5) contains a series of lessons learned and recommendations (pp.41-45) under these categories:

- Legal foundation
- Identification of property rights holders
- Research
- Adjudication and registration processes
- Education, training and communication
- Recommendations for project designers and implementers
- Recommendations for project beneficiaries.

They draw together issues discussed in the earlier chapters and **provide some excellent check lists for people involved in project planning and implementation**, including involving both women and men as role models and mentors, using local expertise, respecting local variations and the need for baseline data.

The chapters are followed by 5 appendices:

1. Summaries of country case studies (Azerbaijan, Bolivia, Ghana, Lao) (pp.47-54)
2. Case study methodologies (pp.55-56)
3. Sample template for gender-specific social assessment (pp.57-58)
4. Sample gender-specific indicators for monitoring and evaluation of World Bank land administration projects (p.59)
5. Sample questionnaire for data collection for baseline and impact evaluation (pp.59-81)

Appendix 5 is divided into 9 modules (pp.60-81) which are **designed to be adapted and modified as needed**. The modules are:

- household roster, parcel information, wealth, credit, community participation,
- nonfarm employment, household enterprise, expenditure (food and non-food),
- community-level data (demography and land use, services and infrastructure, employment and migration, agriculture, community organizations, credit).

I feel it is worth laying out the structure of the report in this level of detail in order to give potential readers a clear picture of its coverage. As indicated earlier, I believe that the authors have succeeded in making this an extremely useful and practical guide, full of questions that need to be raised, helpful checklists, a matrix on different forms of property ownership (p.20), and the valuable Appendix 5 - sample questionnaire for data collection for baseline and impact evaluation (pp.59-81).

In what follows, I have gathered together some of the report's contents and conclusions, sprinkled with a few comments of my own, under the following 8 headings:

1. The need for gender-disaggregated information
2. Acknowledging regional differences
3. Trusting the customary?
4. Gender dimensions in land administration
5. Cultural constraints
6. The power of regulations
7. Adjudication
8. Knowing your rights, education and training.

B. Some key issues raised in the report

1. The need for gender-disaggregated information

Perhaps the most important sentence in the whole report is this one:

'Make gender an integral part of the [land administration] project from the beginning and in all of its phases and components.' (p.xi).

The report argues strongly for the need to gather gender-disaggregated information, not least, one suspects, because 'gender was not considered explicitly at the time of project design' in 3 of the 4 countries from which the report's findings have been drawn. (p.x) Indeed, the report states that 'few, if any, projects gather gender-disaggregated information at the beginning of a project and throughout its life.' (p.12). Therefore, at the time of project preparation, 'gender-specific indicators should be developed to measure the program's differential impact on men's and women's land rights' (p.31) because 'explicitly recognizing gender as an issue to be considered at the outset will allow better monitoring and evaluation of project impacts and will enable the required financial costs and the required expertise for programs to be included.' (p.19) 'Understanding gender differences requires gathering household-level information at the earliest stages of the project.' (p.x). Appendix 3 (pp.57-58) 'provides a template for key informant interview and focus-group protocols that could serve as a guideline for future land project social assessments' (p.31).

The report argues that 'the collection of appropriate gender-specific data is a concern for all land administration projects and should be a World Bank priority, given its investments in the land sector. The knowledge regarding gender and land rights consists of (1) how land rights are distributed among different groups of women and men, and (2) what effects differentiated land rights have on gender equity and on women's capabilities. Collection of this information should be done during land administration project preparation to guide design of the project, during project implementation, and after the project is completed. The methods for collecting these data include social assessments, base-line studies, and impact-evaluation studies. **The importance of collecting gender-disaggregated data is essential for assessing the extent and depth of women's land rights and for assessing the impact of land administration projects on gender equity.'** (p.31)

In particular, without good baseline data it is difficult:

- to know what are the gender-related issues that need to be addressed
- to measure the gendered effects of the project at a later date
- to raise awareness of the need for gender-disaggregated data (p.43).

2. Acknowledging regional differences

'During design and implementation of adjudication processes and registration systems, project staff need to be aware of the complexity of tenure and the variety of local customs and practices that can exist within a country.' (p.xi).

There is a useful introductory section outlining different patterns and trends in land tenure regimes, legal structures and household resource allocation in Africa, Asia, Central and Eastern Europe and the former Soviet Union, and Latin America (pp.5-10).

As an example, in Africa 'the rights of African women regarding land ownership and management vary dramatically according to the cultural and historical context of the region they marry into' (p.5), with Muslim societies and matrilineal areas offering women greatest opportunities (pp.5-6). The authors warn that **'customary rights of women for seasonal or other shared use of land can be cut off by individualization of ownership rights. If these "secondary" rights are not specifically preserved (for instance, by registering**

them), they can be lost.' (p.6). Women may also lose rights to land, even in communal systems, when land becomes more valuable. They cite Kaori Izumi as showing how in Tanzania 'widowed women who had previously been allowed to stay on their husbands' land are now being dispossessed of that land as it increases in value' (pp.6-7).

3. *Trusting the customary?*

The report argues generally that 'Customary institutions are often very important for enforcing women's land rights or making changes to long-held customary norms. They are local and therefore accessible, the leaders are generally respected by the community, and women are less ashamed to approach village leaders than to participate in a formal court hearing.' (p.13). Moreover 'these traditional institutions can have more power to change cultural norms than do legislative bodies or modern institutions. Traditional leaders are able to speak with authority for the whole community and can thereby institute fundamental, socially agreed change' (p.14).

This may well be true in many cases, but not of course in all, as the fierce debates in South Africa around the Communal Land Rights Act testify, while, as Ann Whitehead and Dzodzi Tsikata have pointed out,¹ African women lawyers are much more equivocal about trusting the customary, preferring to look to the State for laws to protect women's interests. They argue that there are considerable problems with so-called customary systems of land tenure and administration for achieving gender justice with respect to women's land claims in Africa and that insufficient attention is being paid to power relations in the countryside and their implications for social groups, such as women, who are not well positioned and represented in local level power structures.

4. *Gender dimensions in land administration*

'Issues in land administration reforms that have a gender dimension include:

1. **a lack of understanding** of the complexity and diversity of land tenure patterns, including women's rights, **by most land administrators**, by project managers, and by those providing technical assistance;
2. a belief that addressing gender issues only means issuing titles or co-titles to women, with little appreciation, for instance, for what happens (a) in subsequent transactions, (b) in enforcement and actualization of those rights, (c) in realizing the benefits that may stem from formalizing women's rights (such as access to credit), and (d) in altering decision-making powers within households;
3. a belief that addressing gender issues within land administration is ensuring that women are hired (for example, as clerks, interpreters, social specialists), rather than mainstreaming equal opportunities for all employees in all types of activities.' (p.18)

Important questions leading to a better understanding of how best to identify and formalize women's land rights include:

- 'Who has communal and who has individual rights to land?
- What are the inheritance and marriage practices?
- How much of a role do consensual unions that are not formalized play within the social system?
- What are the variations between urban and rural areas?' (pp.x-xi).

¹ Ann Whitehead and Dzodzi Tsikata, 'Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Re-turn to the Customary', *Journal of Agrarian Change*, vol. 3, nos.1 and 2, January and April, 2003, 67-112. <http://www.oxfam.org.uk/resources/learning/landrights/downloads/return.rtf>

'There has been recognition that **the practice of issuing titles to just one person in the household (the household head) may be denying other people their land rights.** More than one person may hold rights to a particular parcel of land. Or, if there is more than one parcel, different people may have rights to different parcels.' But 'titling brigades are not trained to look for and identify more than one property rights holder.' (p.27).

The report warns that in legislation gender-neutral terms such as head of household may not be interpreted neutrally, and therefore 'at a minimum it must explicitly recognize women's and men's equal rights to land' as happened in Bolivia (p.26).

5. *Cultural constraints*

The lack of understanding mentioned above is well illustrated in the case of a Peruvian rural titling programme, which 'did not consider the cultural constraints that women, particularly rural women, may face in having their names included on land titles. In addition, titling program officers did not receive any gender-sensitivity training at the ministerial and program levels or at the ground implementation level.' (p.14).

The section on intrahousehold legal and customary rights lists some of the questions that policy makers and project managers need to ask about formal and informal rights to land for individuals and households and within households and communities. It notes that 'cultural prohibitions against women's ownership or use of land are often more powerful than written law' and that 'land projects generally must deal with formal law and customs related to intrahousehold property as they exist, and they must work within them. Much can be done within *land* legislation' but family, inheritance or customary law 'may have a more significant effect on women. Although changing family law and inheritance law may be necessary, such changes do not come easily and in some cases would be outside the realm of a land administration project.' (p.19). One thinks here of communities ravaged by HIV/AIDS and the struggles to change 'customs' which have become inimical to women's lives and livelihoods.

'Policies related to intrahousehold transfers of land, such as inheritance and marital property, need to be studied and understood before advising on land-related legislation. **Inheritance and marital property rules and practices have a major impact on women's rights to ownership of land and their poverty status**' (pp.25-26).

The report argues that 'two legal issues related to community property must be examined in the context of land administration and titling: **consensual unions and polygamy.** Legal marriage can be expensive and time consuming, and it may require residence or personal identification that women do not have' (p.24). In Bolivia and Lao 'a specific legal provision that a consensual union will trigger legal protection of property rights acquired during that union would enable many unmarried women to enforce their property rights when they would not otherwise be able to do' (p.24). Polygamy 'seriously affects women's rights to property and is the source of much tension and anxiety over land rights in many countries. Legislation around polygamy is difficult, but to ignore formal or informal polygamy is to inadequately protect women's property rights. There are no effective and gender-sensitive titling procedures for polygamous households' (p.30).

6. *The power of regulations*

The report argues that 'the biggest impact on women are more often found in the regulations and not the broader policy statements of the law.' (p.26). Therefore, among the issues that should be considered (this is not the full list) are:

- Are men and women guaranteed equal participation in the adjudication process?

- Is the director of the land agency held responsible for nondiscriminatory practices with regard to gender?
- What documents are required by the regulations for proof of ownership? Are these documents readily available to both men and women, and are they expensive to acquire?
- Do the regulations require proof of marriage or consensual union? What type of proof is required?
- Do the regulations require *written* consent for transfer of property held in common ownership? Are there guidelines for how to determine whether land is held in common ownership by operation of law, even if it is registered in only one name?
- Do the regulations deal with polygamy if necessary?
- Do the regulations deal with illiteracy?
- Where are disputes adjudicated?
- How do the issues of money, time and literacy influence the dispute resolution process? (p.26)

7. Adjudication

On adjudication, these are some of the questions that need to be considered to protect the interests of women and men:

1. Have all of the stakeholders had access to information concerning their rights and the adjudication process?
2. Is the adjudication team familiar with the local customs, laws, and practices affecting the rights of both men and women?
3. Do the processes have to be modified from region to region (for example, urban/rural or other types of land tenure)?
4. Are secondary interests, including rights to resources, considered and protected in some way through the adjudication?
5. Do all stakeholders have equal access to the documentation required for adjudication, and, if not, what measures can be taken to level the playing field?
6. Are the timing and location of adjudication procedures and registration offices appropriate for all potential interest holders.
7. Are women's rights adequately represented and protected in dispute resolution and how can lengthy and costly litigation be avoided? (pp.34-35).

8. Knowing your rights, education and training

The report makes the valid point that 'legislative reform by itself often makes little difference to the majority of women' and that those who take advantage tend to be 'urban, educated, and usually wealthy women.' (p.25). But law can create openings for women's land rights. Hence the trend is to avoid having disputes reach the courts, partly because of cost and partly because 'disputants, particularly women, often have unequal powers to acquire legal advice and to sustain their claims.' (p.34)

'The most important aspect of the provision of public notice is that **all potential stakeholders have the ability to know about and understand their rights and any threat to those rights.** Thus, issues such as media, illiteracy (including map illiteracy), location, and timing are crucial. Public displays need to be accessible to everyone, including the elderly and those who cannot leave home because of cost, lack of transportation, or household responsibilities. Whereas this affects both women and men, women in rural areas are often less mobile than men.' (p.33)

The Cambodian case

‘An example of successful information campaigns that include gender issues at the local level is the case of Cambodia’s land titling project. This education activity includes both men and women and is careful to ensure that illiterate women are provided with appropriate information. All related materials are posted in a public place in the villages, literature on land rights and titling procedures is provided in pictorial form, meetings are held in local schools or community centers, and titles are issued locally. Involvement of both female and male field staff helps emphasize gender inclusiveness.’ (p.38)

‘The training of implementers and communication with beneficiaries are key to understanding gender equity in any land administration project.’ (p.xi).

Education, training and communication, the report suggests, are valuable – I would argue vital - tools in:

- promoting gender equity in land administration
- **raising awareness about rights within a country and hence encouraging longer term sustainability**
- making project implementers more aware of social and cultural implications and the need for gender sensitivity
- increasing the participation of women in land administration, classically a male-dominated profession
- increasing the participation of women and men in titling and registration processes (p.35).

‘An important opportunity exists for World Bank intervention by **including women in any technical or other training, education programs, or study tours. This has been shown to be an enabling strategy that can promote more gender inclusion, despite the traditions within land administration.** It enables women to play more than a secondary role, and it encourages project managers to be more aware of gender balance.’ (p.36). Moreover, ‘It is always important to include both men and women in training to prevent the marginalization of gender issues to female staff.’ (p.37)

‘Informing both men and women of their rights is essential for mutual understanding of any differences. Sessions with both men and women also allow each group to understand potential barriers to full participation (for example, scheduling of adjudication, traveling to registry offices, obtaining documentation), and may encourage households to overcome these barriers together. However, it is also often important to hold separate sessions for women to provide a non-threatening environment for discussion and to provide feedback to the land administration processes. Having public meetings in which younger people can participate is also a way to ensure that the next generation of landholders is also a way to ensure that the next generation of landholders better understands its rights.’ (p.39)

9, A final brief caveat

While ‘mindful of the potentially negative consequences of excluding women from land programs, the formalization of women’s property rights in land should not in and itself be seen as a panacea for gender inequality – just as land market reform in general is not a panacea for poverty.’ (p.5).